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Division of Licensing and
Regulatory Services

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November 11, 2009

Phyllis Powell, CON Manager
Office of Planning, Development and Quality
Division of Licensing and Regulatory Services
41 Anthony Avenue
11 State House Station
Augusta, ME 04333

RE: Letter of Intent & Non-applicability Determination Request –
MRI Services at Sunbury Medical Associates

Dear Ms. Powell:

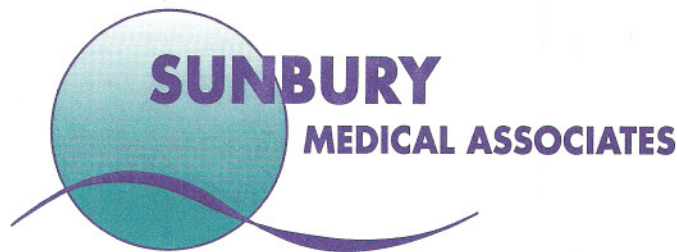
Sunbury Medical Associates ("Sunbury") submits this Letter of Intent and Non-Applicability Determination Request with respect to its proposed initiation of MRI services at its Bangor campus. This Letter of Intent fulfills the requirements of Chapter 6, Section 1 (A) and (B) of the CON Procedures Manual, and requests a non-applicability determination consistent with Chapter 6, Section 2(4).

We request a ruling from the Department that the Certificate of Need program is not applicable to Sunbury's proposed initiation of MRI Services. If you believe a meeting would be helpful to review this inquiry, we would be happy to participate.

Background

Sunbury is a primary care physician practice comprised of ten (10) physician(s) and seventeen (17) ancillary providers (physician assistants, nurse practitioners, etc.). It has physician offices in Bangor, Brewer, Corinth, Hampden, Herman, Orono and Winterport. Sunbury proposes to initiate MRI services at its Bangor site and will bill patients on a global basis for the MRI technical and professional components. The MRIs will be read by a radiologist who will be reimbursed by Sunbury for the interpretation.

Sunbury will enter into an agreement with NEHE MRI, LLC ("NEHE") under which NEHE will provide the MRI equipment, technologist, and maintenance. NEHE will utilize mobile MRI equipment owned by its affiliate, Alliance Imaging, with a fair market



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value of approximately \$475,000. On site construction to prepare the mobile pad for the units will be approximately \$45,000.

CON Review Standards

We do not believe the MRI services are subject to CON review or approval because:

- While these may be new services to Sunbury, Sunbury is not a "Health Care Facility," and is therefore not subject to CON review with respect to "New health services."
 - Under 22 M.R.S.A. § 328(8) the definition of "Health Care Facility" excludes the "office of a private health care practitioner" whether in individual or group practice.
 - Sunbury is comprised of private health care practitioners in group practice, located in private offices in the greater Bangor area, and thus Sunbury does not come within the definition of "Health Care Facility."
 - Since Sunbury is not a Health Care Facility, the MRI services are not "New health services" as defined in 22 M.R.S.A. §17-A, therefore no CON is required.
- The MRI unit is not "major medical equipment," individually or together, as the total value of the equipment falls below the current review threshold of \$1.6 million -- and Sunbury is not a "Health Care Facility" whose capital expenditures are subject to CON review.
- The total capital costs are below \$3.1 million -- and Sunbury is not a "Health Care Facility" whose capital expenditures are subject to CON review.
- Likewise, NEHE is not a "healthcare facility" for the reasons set forth in the attached letter of Ms. Powell dated July 18, 2007.

Conclusion

On these several bases, we request a non-applicability ruling at your earliest convenience in order to permit us to initiate services effective December 1, 2009.



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Should you or your staff have any questions, please do not hesitate to contact me or Sunbury's counsel, Mike Duddy, Esq. (775-1020, mduddy@krz.com).

We look forward to hearing from you.

Sincerely,

David L. Savell
Chief Executive Officer